



Rule and Interpretive/Policy Statement Review Checklist
(This form must be filled out electronically.)

This form is to be used when the current version of the rule(s) has/have not previously been reviewed. When reviewing an interpretive or policy statement, this document is to be used only if the review of the statement is not in conjunction with the review of a rule.

All responses should be **bolded**.

Document(s) Reviewed (include title): **WAC 458-16-270: Schools and colleges**

Date last adopted/issued: **12/01**

Reviewer: **Kim M. Qually**

Date review completed: **11/12/02**

Briefly explain the subject matter of the document(s):

WAC 458-16-270 describes the property tax exemption available to nonprofit schools and colleges under RCW 84.36.050. This rule also describes the exemption of property owned by a not-for-profit foundation established for the exclusive support of an institution of higher education that is leased to and used by the institution exclusively for college or college purposes and actively utilized by currently enrolled students.

1. Public requests for review:

YES	NO	
	X	Is this document being reviewed at this time because of a public request?

2. Need:

YES	NO	
X		Is the document necessary to comply with the statutes that authorize it?
	X	Is the information provided in the document so obsolete that it is of little value, warranting the repeal or revision of the document?
	X	Have the laws changed so that the document should be revised or repealed?
X		Is the document necessary to protect or safeguard the health, welfare (budget levels necessary to provide services to the citizens of the state of Washington), or safety of Washington's citizens?

Please explain.

RCW 84.36.050 grants a property tax exemption to property owned or used by any nonprofit school or college to the extent that it is used exclusively for educational purposes or for cultural or art educational programs. This statute was amended in 2001 to expand the exemption to property owned by a not-for-



profit foundation established for the exclusive support of an institution of higher education if the property is leased to and used by the institution exclusively for college or campus purposes and available only to currently enrolled students.

WAC 458-16-270 describes the parameters and conditions under which a nonprofit school or college may obtain and retain an exemption under this statute. It contains a separate subsection for property owned by a not-for-profit foundation and leased to a nonprofit school or college. This rule was amended in 11/01 as a result of the 2001 statutory changes. The new version of the rule was effective 12/29/01.

3. Related interpretive/policy statements, court decisions, BTA decisions, and WTDs:

Complete Subsection (a) only if reviewing a rule. Subsection (b) should be completed only if the subject of the review is an interpretive or policy statement. Excise Tax Advisories (ETAs), Property Tax Advisories and Bulletins (PTAs/PTBs), and Interim Audit Guidelines (IAGs) are considered interpretive and/or policy statements.

(a)

YES	NO	
	X	Are there any interpretive or policy statements that should be incorporated into this rule? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any interpretive or policy statements that should be cancelled because the information is currently included in this or another rule, or the information is incorrect or not needed? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any Board of Tax Appeals (BTA) decisions, court decisions, or Attorney General Opinions (AGOs) that provide information that should be incorporated into this rule?
	X	Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the rule?

(b)

YES	NO	
		Should this interpretive or policy statement be incorporated into a rule?
		Are there any Board of Tax Appeals (BTA) decisions, court decisions, or Attorney General Opinions (AGOs) that affect the information now provided in this document?
		Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the document?



If the answer is “yes” to any of the questions in (a) or (b) above, identify the pertinent document(s) and provide a brief summary of the information that should be incorporated into the document.

Even though there have been several fairly recent BTA decisions relating to RCW 84.36.050, none of the decisions include any information that should be included into the rule.

4. Clarity and Effectiveness:

YES	NO	
X		Is the document written and organized in a clear and concise manner?
X		Are citations to other rules, laws, or other authority accurate?
X		Is the document providing the result(s) that it was originally designed to achieve?
	X	Do changes in industry practices warrant repealing or revising this document?
	X	Do administrative changes within the Department warrant repealing or revising this document?

Please explain.

WAC 458-16-270 was just amended in 2001 to include statutory changes. It is written in a clear and concise manner in the format now favored by DOR. The style and content of the rule was carefully reviewed in 2001 and it was written in a user-friendly manner. The rule as written achieves its intent and purpose. DOR isn't aware of any problems created by the rule since it was adopted in 2001.

5. Intent and Statutory Authority:

YES	NO	
X		Does the Department have sufficient authority to adopt this document?
X		Is the document consistent with the legislative intent of the statute(s) that authorize it?
	X	Is there a need to recommend legislative changes to the statute(s) being implemented by this document?

Please explain.

RCW 84.36.865 grants DOR the authority to adopt rules and regulations as may be necessary or desirable to permit the effective administration of the chapter 84.36 RCW relating to property tax exemptions.



6. Coordination: Agencies should consult with and coordinate with other governmental entities that have similar regulatory requirements when it is likely that coordination can reduce duplication and inconsistency.

YES	NO	
	X	Could consultation and coordination with other governmental entities and/or state agencies eliminate or reduce duplication and inconsistency?

Please explain.

Property tax exemptions are administered by the Property Tax Division of DOR. Local governments and other state agencies, as appropriate, are consulted during the rule-making process so the chance of adopting duplicative and/or inconsistent rules is minimal.

7. Cost: When responding, consider only the costs imposed by the document being reviewed and not by the statute.

YES	NO	
	X	Have the qualitative and quantitative benefits of the document been considered in relation to its costs?

Please explain.

This is an interpretive rule that imposes no additional administrative burdens on taxpayers not already imposed by the statutes in chapter 84.36 RCW.

8. Fairness: When responding, consider only the impacts imposed by the document being reviewed and not by the statute.

YES	NO	
X		Does the document result in equitable treatment of those required to comply with it?
	X	Should it be modified to eliminate or minimize any disproportionate impacts on the regulated community?
	X	Should the document be strengthened to provide additional protection to correct any disproportionate impact on any particular segment of the regulated community?

Please explain.

This rule applies uniformly to all nonprofit schools or colleges that receive or seek a property tax exemption under RCW 84.36.050. Since the rule was adopted in 1994, no problems related to it have been brought to DOR's attention.



9. LISTING OF DOCUMENTS REVIEWED:

Statute(s) Implemented: **RCW 84.36.050:** **Schools and colleges**

Interpretive and/or Policy Statements (e.g., ETAs, PTAs, IAGs): **none**

Court Decisions: **none**

Board of Tax Appeals Decisions (BTAs):

Day Star Christian Academy v. DOR, BTA Docket Nos. 53597-53598 (1999) - The Department considers the school as the primary use of this property but concludes the exemption for schools provided in RCW 84.36.050 is unavailable because the real property is not irrevocably dedicated to school purposes as required by RCW 84.36.805(2).

Cedar Park Assembly of God Appellant v. DOR, BTA Docket Nos. 51393; 51394; & 51395 (1998) - irrevocable dedication of property owned by a trust and used for school purposes.

Faith Baptist Church - Spokane v. DOR, BTA Docket No. 55710 (2001) - whether a religious-based K-12 school is exempt from property taxation under RCW 84.36.050 when it is not approved by the Washington State Superintendent of Public Instruction (SPI). The Board found the school was entitled to the exemption because it offers an educational program of a general academic nature and its students' credentials are accepted without question or examination by Washington's public schools. It is not necessary that the school or its teachers be accredited by SPI.

Appeal Division Decisions (WTDs): **none**

Attorney General Opinions (AGOs): **none**

Other Documents: **none**

10. Review Recommendation:

- ☐ **Amend**
- ☐ **Repeal/Cancel** (Appropriate when action is not conditioned upon another rule-making action or issuance of an interpretive or policy statement.)
- ☒ **Leave as is** (Appropriate even if the recommendation is to incorporate the current information into another rule.)
- ☐ **Begin the rule-making process for possible revision.** (Applies only when the Department has received a petition to revise a rule.)



Explanation of recommendation: Provide a brief summary of your recommendation. If recommending that the rule be amended, be sure to note whether the basis for the recommendation is to:

- Correct inaccurate tax-reporting information now found in the current rule;
- Incorporate legislation;
- Consolidate information now available in other documents (e.g., ETAs, WTDs, and court decisions); or
- Address issues not otherwise addressed in other documents (e.g., ETAs, WTDs, and court decisions).

The current version of the rule was just adopted in 12/01. It reflects the current extent of the exemption provided for in RCW 84.36.050.

11. Manager action: Date: _____

_____ Reviewed and accepted recommendation

Amendment priority:

- _____ 1
- _____ 2
- _____ 3
- _____ 4